

City Council Introduction: **Monday**, April 1, 2002
Public Hearing: **Monday**, April 8, 2002, at **1:30 p.m.**

Bill No. 02-43

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3351**, from H-4 General Commercial to I-1 Industrial, requested by Jake Von Busch, on property generally located north and east of the intersection of S.W. 5th and West "B" Streets.

STAFF RECOMMENDATION: Approval when combined with Change of Zone No. 3358.

ASSOCIATED REQUESTS: Change of Zone No. 3358 (02-42)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/23/02; 02/06/02; 03/06/02; and 03/20/02
Administrative Action: 03/20/02

RECOMMENDATION: Approval (9-0: Newman, Taylor, Carlson, Steward, Duvall, Bills-Strand, Larson, Krieser and Schwinn voting 'yes').

FINDINGS OF FACT:

1. The original staff recommendation on this change of zone request was denial because if the I-1 zoning was approved, the remaining H-4 district would have been less than five areas in size and therefore not in compliance with the requirements of the Zoning Ordinance. See Minutes p.6-9.
2. After the original public hearing on February 6, 2002, a companion Change of Zone No. 3358 (02-42) was filed by Robert Stephens for property located north and east of the intersection of S.W. 6th and West "A" Streets.
3. On March 7, 2002, the staff revised its recommendation to approval based upon the "Analysis" as set forth on p.3-5, concluding that when combined with Change of Zone No. 3358 (02-42), this request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan. It will allow an appropriate use of the land which will not adversely affect the neighborhood.
4. The minutes of the Planning Commission, in conjunction with the companion Change of Zone No. 3358, are found on p.9-14.
5. There was no testimony in opposition.
6. On March 20, 2002, the Planning Commission agreed with the revised staff recommendation and voted 9-0 to recommend approval of this change of zone request.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 26, 2002

REVIEWED BY: _____

DATE: March 26, 2002

REFERENCE NUMBER: FS\CC\FSCZ3351

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT (REVISED)

P.A.S.: Change of Zone #3351

DATE: March 7, 2002

PROPOSAL: To change the zoning from H-4 General Commercial to I-1 Industrial on property north and east of the intersection of Southwest 5th Street and West B Street.

LAND AREA: Approximately 2.6 Acres

CONCLUSION: **When combined with CZ#3358, this request complies with the Zoning Ordinance and is consistent with the Comprehensive Plan.** It will allow an appropriate use of the land which will not adversely affect the neighborhood.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 14-21, Lot B, Block 5, Elmwood Addition.

LOCATION: North and east of the intersection of Southwest 5th Street and West "B" Street.

APPLICANT/ Jake Von Busch
OWNER: 6401 Southwest 12th Street
Lincoln, NE 68523

CONTACT: Mark Hunzeker
Suite 200
1045 Lincoln Mall
Lincoln, NE 68508

EXISTING ZONING: H-4 General Commercial

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North:	Vacant	I-1
South:	Commercial	I-1
East:	Salt Creek	I-1
West:	Vacant	H-4

ASSOCIATED APPLICATIONS: CZ#3358 - A request for a change of zone from H-4 to R-2 and I-1 for the remaining H-4 adjacent to the west, submitted by Robert Stephens.

HISTORY: CZ#3155 - approved a change of zone in December, 1998 from B-2 to H-4 for all land within the area currently zoned H-4, except Lot B. This action also re-zoned two adjacent parcels west of 6th Street from B-2 to B-1 and R-2 (see attached vicinity map from the CZ#3155 staff report dated October 27, 1998 for the area included). The Planning Director initiated this change of zone in response to CZ#3137.

CZ#3137 - approved a change of zone from B-2 to H-4 in December, 1998 for Lot B. The applicant was Jake Von Busch, and it was originally submitted as a change of zone from B-2 to I-1 to accommodate his garbage collection service. During the review, it was determined his business was classified as a truck terminal, a use allowed in the H-4 district, so the application was amended to re-zone from B-2 to H-4 instead of to I-1. CZ#3155 was initiated by the Planning Director to re-zone the remaining B2 not included in CZ#3137 as it was less than the minimum five acres in area (see attached vicinity map from the CZ#3137 staff report dated October 27, 1998 for the area included).

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Map designates this land as Commercial.

UTILITIES: Available

TOPOGRAPHY: The entire area is within the 100 year flood plain. The property is generally flat, although the area north of West B Street slopes down to the north.

PUBLIC SERVICE: City of Lincoln fire and police.

REGIONAL ISSUES: Development in the flood plain.

ENVIRONMENTAL CONCERNS: Development in the flood plain.

ALTERNATIVE USES: Commercial uses within H-4 zoning.

ANALYSIS:

1. This is a revised staff report to reflect that a companion change of zone request (CZ#3358) has been submitted by an adjacent property owner, Robert Stephens. That request seeks to re-zone the remainder of the H-4 adjacent to Mr. Von Busch's property to I-1, with an R-2 buffer along Southwest 6th Street.
2. The concern noted in the previous staff review of Mr. Von Busch's application was that if approved, the remaining H-4 district would have been less than five acres in size and therefore not in compliance with the requirements of the Zoning Ordinance. However, this is no longer an issue when considered in conjunction with CZ#3358.

3. The Comprehensive Plan lists criteria for the review of zoning proposals. These include portions of Nebraska Revised Statutes Section 15-902;
 - A. Safety from fire, flood and other dangers;
 - B. Promotion of the public health, safety, and general welfare;
 - C. Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development;
 - D. Conservation of property values; and
 - E. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.

4. There are seven specific criteria established in the Plan for review including;

A. Infrastructure: the availability of the water, sewer, drainage and the transportation systems.

The site can be served by municipal utilities, and is adjacent to public streets. Adequate infrastructure exists to support the allowed uses in both H-4 and I-1.

B. Compatibility: harmony and suitability with the surrounding land uses and the natural environment.

This site is entirely within the 100-year floodplain, and there may be wetlands in the area. Appropriate measures must be implemented to ensure development occurs in a manner compatible with these constraints and in compliance with the applicable laws and regulations.

Lands adjacent to the north, south and east are zoned I-1, and the property to the west will also be zoned I-1 if the companion change of zone request CZ#3358 from Robert Stephens is approved.

C. Health and Safety: protection against natural and man-made hazards including noise; air, ground and water pollution; flooding; and hazards from industrial or agricultural processes or products.

This site is within the Salt Creek Channel corridor. Along this portion of the corridor, I-1 zoning and the associated allowed uses are compatible with surrounding zoning and development.

D. Physiographic Features: the topography, suitability of proposed land uses with streams, lakes, soil types, natural vegetation or wildlife habitat.

There does not appear to be any significant impact associated with this request.

E. Accessibility: availability, or lack thereof, of public transportation, arterial connections and pedestrian linkages.

This request is adjacent to, and has access to West A Street.

F. Open Space: availability of sufficient open space and recreational areas to accommodate a project's residents and employees.

Adequate open space exists.

G. Fiscal Impacts: whether the proposed use does not create a burden to local tax revenues and/or available resources.

There appears to be no significant fiscal impact.

5. This request, although not consistent with the land use map, meets the zoning criteria outlined in the Comprehensive Plan. As noted in criteria B above, this land will be surrounded by I-1 zoning on all four sides if CZ#3358 is approved. **When considered in conjunction with CZ#3358, this request also complies with the Zoning Ordinance and is compatible with the existing zoning and pattern of development in this area.**

Prepared by:

Brian Will, AICP
Planner

CHANGE OF ZONE NO. 3351

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 23, 2002

Members present: Steward, Newman, Bills, Taylor, Carlson, Krieser and Schwinn; Duvall and Hunter absent.

Staff recommendation: Denial.

Proponents

1. Mark Hunzeker appeared on behalf of the applicant and requested a two-week deferral, pending potential resolution of alternatives to this change of zone.

Steward moved to defer, with continued public hearing and administrative action scheduled for February 6, 2002, seconded by Carlson and carried 7-0: Steward, Newman, Taylor, Bills, Carlson, Krieser and Schwinn voting 'yes'; Duvall and Hunter absent.

2. Jake Von Busch, the owner of the property and applicant, testified that he must move his business because the railroad has taken the I-1 property that he has now. He fought years ago to get that I-1 and he does not want to give it up for H-4 because of the prescribed setbacks and there is not enough land to handle those setbacks. That place was nothing but a dump when he took it over. He just purchased the five lots next to it which was being used for a garbage dump. He is in the process of cleaning that up.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

Members present: Taylor, Carlson, Bills, Steward, Krieser, Duvall and Newman; Hunter and Schwinn absent.

Staff recommendation: Denial.

Proponents

1. Mark Hunzeker appeared on behalf of the applicant. Von Busch Refuse is currently located on 3rd and West "A" and is virtually being required to move due to the relocation of "A" Street as it goes over the railroad tracks east of this property. The overpass and rights-of-way are taking approximately 155' of Von Busch's existing location, making it necessary for Von Busch to move from its current location. Von Busch plans to build on this property.

Hunzeker went on to state that the problem with the existing zoning is that the setbacks required under H-4 and the parking requirements are excessive for this type of business. The property to the north is zoned Industrial; the property to the east is zoned Industrial; the property to the south is zoned Industrial. The area to the north is zoned Industrial from the north boundary of this property to West "O" Street.

The property to the south is zoned Industrial along the entire frontage of this property. All of the property that is currently zoned H-4 is directly across from Industrial zoning. Thus, Hunzeker purported that the objection implicitly made that it is too close to residential simply does not hold. There is already Industrial zoned property much closer to the residential area that is currently in place.

Hunzeker further pointed out to the Commission that Von Busch has put a tremendous amount of work into this property. He has cleaned it up and placed fill to level it out, all the time with the intention of eventually using this property for some beneficial use. It was rezoned a couple of years ago from B-2 to H-4; however, Hunzeker recalls that the initial instinct was to zone it Industrial at that time, but it ended up being zoned H-4. S.W. 5th is a drainage way and will likely never be a street.

Hunzeker believes it is appropriate to rezone this property. There have been conversations about what might likely happen to this property. Bob Stephens of Stephens and Smith owns property on both sides, some zoned industrial and some highway commercial. Hunzeker believes Stephens would prefer industrial zoning as well.

Newman sought clarification as to why Von Busch cannot do business with the H-4. Hunzeker stated that the H-4 requires one parking stall for every 300 sq. ft. of building area. For his trucks and servicing, the size of the building will be something like 15,000 sq. ft. There will be an additional portion for office use that will be another 3,000 to 5,000 sq. ft.. The total is actually around 18,000 sq. ft., which projects to about 65 parking stalls. Von Busch couldn't use 65 parking stalls for a company picnic. And it is very expensive to provide this amount of parking and it constricts the site plan.

Other than the use of the building, Steward inquired whether Von Busch parks a significant number of trucks on the property. Hunzeker stated that all of the trucks will be parked within the new building. Steward's concern is that the property is in the floodplain. Hunzeker does not believe this property is in the floodplain because it has had some fill. Even if it is above flood elevation, Hunzeker is not sure there is a concern about flood elevations because of the use of the building primarily for parking of vehicles.

Steward is also concerned about environmental matters from a refuse process. What happens inside the building? **Jake Von Busch** explained that he does have a wash bay in the building to wash the trucks. They do the greasing and oil changing in this building; however, the main mechanic work is done at International Harvester. He maintains a piece of property on 3rd Street where all of the containers and roll-offs are located. That building on 3rd Street will also be used for repair.

Hunzeker suggested that there are regulations by Health with respect to wash bays and drainage pits, etc.

2. Bob Stephens of Stephens and Smith, owner of the property both to the east and west of the property in question, testified in support with one caveat – if the zoning on the Von Busch property is going to be changed from H-4 to I-2, then Stephens wants the same change on his property as well. The area is generally industrial. There is some residential to the west of both of these properties; however, he does not see the usage changing dramatically whether it be H-4 or I-1.

Steward inquired about the use of the property at S.W. 6th Street to the north and of the Stephens property. Stephens acknowledged that there is a single family home on that location and there are some single family and duplexes located generally to the west. Steward commented then that if there was an additional request to expand this I-1, obviously it would not include that parcel at "B" and S.W. 6th. Stephens believes that the property may already be zoned H-4 and sort of a nonconforming use today.

Stephens is willing to apply for a change of zone, also. He supported the H-4 zoning two years ago because he thought he could make that work. But if the zone is changed to I-1 and the Stephens property is the last little piece there, it makes more sense to zone the Stephens property I-1, also.

There was no testimony in opposition.

Carlson asked staff about the ownership of the remnant H-4. Brian Will of Planning staff advised that the single family home is zoned H-4. Carlson noted that the staff report indicates difficulty because the remaining H-4 does not meet the 5-acre minimum. Will clarified that if this particular application is approved, then the remaining H-4 within the area falls below the 5-acre minimum. There is a concern by staff about buffering the residential property to the west. He also clarified that the parking requirement in I-1 is one parking stall per 1,000 sq. ft.

Newman wondered whether there is any possibility to waive the parking requirements in the H-4 since the parking will be inside the building. Will suggested that there is certainly opportunity for the applicant to seek a variance of the parking standards and setback requirements within the H-4 district through the Board of Zoning Appeals.

Response by the Applicant

Hunzeker agreed that they could go to the Board of Zoning Appeals and ask for a variance. But the language of the Board of Zoning Appeals jurisdiction is something along the lines of being able to show circumstances of unique, peculiar or unusual circumstances that apply which create some sort of hardship. In this situation, he is not sure this is terribly unique, but it is certainly a hardship. Generally speaking, however, when we make that argument to the Board of Zoning Appeals, we have heard from staff that that means you must prove that you virtually have no use available to the property in order to claim that the variance is necessary to provide a reasonable use of the property. Hunzeker's argument has always been that that is the function of the Board of Zoning Appeals--to provide relief to allow for a reasonable use, not necessarily that there is no reasonable use without it. That is why we're here. There is no guarantee that we will be able to get a variance from the Board of Zoning Appeals. Usually when we ask for variance of parking, it is conditioned upon providing the space for the additional parking in the event that the use of the building changes in the future. This is not an area where you are likely to see much in the way of different type of use. It's just a function of how much land is going to be chewed up with setbacks and parking that is unnecessary.

Steward inquired about spending more time to make this a larger application. Hunzeker stated that Stephens is willing to make the application for his property and Hunzeker would agree to a deferral of this application if it is possible to bring it forward quickly. His client would prefer not to wait. He

does not believe that leaving less than 5 acres of H-4 creates a nonstandard issue. He would not disagree to having the changes of zone brought forward together.

Bills moved to defer four weeks, with continued public hearing and administrative action scheduled for March 6, 2002, seconded by Taylor. The purpose of the four-week deferral is to provide the opportunity to bring in the rest of the property.

Carlson agrees with deferral, but he is not sure how to blend the I-2 and the residential uses. With the application before the Commission now, he is not sure how the I-1 will lessen that.

Steward commented that he is not certain the I-1 is of any significant difference than the H-4 basically in terms of impact on this particular location and the residential uses. He does have a concern about the one property at the corner of "B" and 6th Street and how that is going to end up being treated in an extended application. He is also concerned about the small area along the creek, although the creek itself presents a good opportunity for a boundary definition. He believes these are two areas that are going to need to be resolved in the intervening time, as well as the other adjacent east and west properties.

Motion to defer four weeks, with continued public hearing and administrative action scheduled for March 6, 2002, carried 7-0: Taylor, Carlson, Bills, Steward, Krieser, Duvall and Newman voting 'yes'; Hunter and Schwinn absent.

CHANGE OF ZONE NO. 3358 And CHANGE OF ZONE NO. 3351

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 6, 2002

Members present: Steward, Carlson, Bills-Strand, Taylor, Newman and Schwinn; Duvall and Krieser absent.

Staff recommendation: Denial.

Proponents

1. Bob Stephens, the owner of the property at S.W. 6th and A Street appeared in support of Change of Zone No. 3358. He acknowledged the staff recommendation of denial but pointed out that the Health Dept. did not have any objections to this change of zone.

Steward recalled that the general discussion at the last hearing on Change of Zone No. 3351 was about a smaller parcel being left in H-4 than our normal circumstances required, so the Commission suggested the I-1 strategy with the additional property owned by Stephens, but now the staff report indicates concern for the adjacency of the I-1 and an R-2 across the street. The staff report also suggests another possible alternative, which is to leave a small R-2 strip as a buffer between the existing R-2 and the proposed I-1. Is this a strategy that you would support? Stephens stated that it

is not what he would really like to see. He clarified at the map where the R-2 would be located. The property directly west of the most southern portion of the lots located at S.W. 6th and "A", across to the west, is not R-2. He assumes it would only be that portion adjacent. Stephens suggested that the buffer be something less than a 50' lot. A 50' lot would make it a buildable R-2 lot. Stephens believes the setback requirement for an R-2 lot is 50', so this would effectively leave a 100' buffer.

Stephens indicated that he did have discussion with the owner of the lot just north of his property, essentially at S.W. 6th and "B", and she did not object and her property has been included in this change of zone. Stephens also talked with the property owner of the other piece that is above and to the north of Von Busch's area. The rest of their ground is zoned I-1, so they would support this change. Everything surrounding this property is I-1 except the R-2 across the street to the west.

Carlson inquired about the proposed use for the property. Stephens does not have any immediate plans but he can see that this property would work well for something that would fit in I-1, such as office warehouse or something of that nature. It does have the "A" Street frontage. Yet the setback and parking requirements of the H-4 are less helpful than the I-1. Stephens has owned the property for 15 years and it sat there a long time before that.

2. Jake Von Busch, owner of property in Change of Zone No. 3351, stated that he has worked hard for this property and spent many years. The city never did anything to the property. There used to be a barn on the property with no running water and no electricity. He has spent a lot of money and time cleaning up the property and made it presentable to be able to do something with it. He has talked with all the neighbors and there is no one against this zoning and no one against him building there. The railroad is moving him out of his present location because of the "A" Street overpass; otherwise, he would not be moving. This H-4 is not acceptable because the requirement for 64 parking stalls and the 50' setback takes too much of his property just for setbacks. He needs I-1. Without the I-1 he will be struggling with the city to stay where he is at.

Von Busch stated that he will only have two buildings on this site--an office building and a storage building. He does not need 64 parking stalls. Von Busch will not sell his other property to the city until he gets something he can build upon.

Carlson noted that the property was changed in 1998 from B-2 to H-4 and he wondered whether Von Busch knew he would be building a building on this property at that time. Von Busch indicated that he did not know at that time. He didn't know when the city would make up their mind. He acknowledged that he bought the property as speculation and cleaned it up. Carlson wondered about plans showing what he is going to build. Von Busch has not submitted building plans but it will take a bigger part of the ground. The shop will be approximately 100' x 154', where he will store the trucks, and the office building will be approximately 75' x 50'. The property is not quite 3 acres. A 50' setback puts the building right in the middle of the lot and he will lose a lot of space.

3. Mark Hunzeker stated that the additional land was added to this change of zone at the suggestion of the Commission after the staff objected to leaving a small portion zoned to the west. This area is perfectly appropriate. The net result is going to be very little change other than to make the parcel, particularly the Von Busch parcel, usable for its proposed use. It's an area that

has been historically zoned industrial; it is surrounded by industrial; and the impact of industrial zoning on these parcels is minimal at best.

Carlson noted that the staff's primary objection to Change of Zone No. 3351 is that the remaining H-4 doesn't make the minimum 5 acres, but it seems staff is indicating there could be 5 acres remaining. How close are we? Hunzeker suggested that if that is true, he is not sure why the objection was made in the first place. The area to the north is clearly industrial; the area immediately to the south is a creek bottom that is likely to remain unused, regardless of how it is zoned; the area in the Stephens application (Change of Zone No. 3358) is largely vacant with the exception of the one house on the area just north of "B" Street, and it abuts industrial area as well. There was no testimony in opposition.

Staff questions

Carlson referred to Change of Zone No. 3351 (the Von Busch property), and looking at the staff report, it looks like the substance of objection is that the H-4 is less than 5 acres. Can you show me on the map where we have the five acres? If Change of Zone No. 3351 were approved, how much is left over and how close to 5 acres is it? Brian Will of Planning staff referred to the map. The H-4 is approximately 7.5 acres. So the area shaded on the map is the substance of the Von Busch application. If that were changed to I-1, the total acres would be less than 5 acres (3.5 to 4 acres). That was the primary substance of the objection. The staff report mentions that it appears to make sense to rezone a good portion to I-1 as being consistent with the Comprehensive Plan, the surrounding zoning and the way development is occurring. However, there is R-2 to the west across 6th Street that the staff could not ignore in the analysis. Originally, prior to 1998, this parcel was all zoned B-2. Brian referred to the map showing the previous zoning in the area and explained the zoning history.

Carlson sought clarification that the staff is suggesting that if there is intensification of zoning going on, it is important to have a buffer. Will stated that there is a good case for rezoning a good portion of this property, but the problem with I-1 is that we have no use permit process and no protection or provision for mitigation with the adjacent R-2. One suggestion was to change a portion of the lots on the western portion to R-2 to provide some sort of a buffer for the residential uses to the west.

Carlson inquired whether there is any other zoning that would accommodate the needs here. Will indicated that the staff looked at the H-3 district, but the parking and setback standards were a problem.

Steward inquired about the alternative for a strip of R-2 on the west edge. He presumes that would be the northwest edge—it wouldn't need to come all the way down to "A" Street. Will stated that it would include only that part that abuts R-2. The setback requirement between that use in the I-1 and the R-2 district would be 20'. The staff was suggesting 50' because it would provide room for a landscape buffer, one drive aisle and one row of parking. Steward assumes that if it were a 20-25' strip of R-2, there would be adequate space for the buffer and some parking. Will concurred.

Schwinn observed that the alternative would only apply to two of the Stephens lots that would have the R-2 buffer. Will concurred and showed them on the map. There is a single family residence located in the existing H-4 zoning and it is under ownership other than Mr. Stephens. However, Mr. Stephens indicated that this owner is not opposed.

Response by the Applicant

Hunzeker suggested that if the Commission chooses to put a buffer along S.W. 6th Street, it would be an extraordinary amount of effort for very little substance in order to require a special permit for parking on half of that 50' buffer. You have 25' setback in R-2; you would not be permitted to park within that 25' setback, so you would be faced with the situation of processing a specific and special permit application for the 25' strip in order to take advantage of the reduced setback. You could reach that same result by using some sort of strip of residential land with a 10' strip of residential on the east side of S.W. 6th. Combined with the sideyard setback of 15' when it abuts residential, you get a 25' landscaped area within which no parking could take place and you reach the same result. It does not make sense to extend the residential strip into the area where the nonconforming house sits because it already abuts industrial and is already nonconforming and will be nonconforming as I-1, and the owner has no objection.

But, Steward pointed out that the question on the northwest corner block is not the nonconforming house—it's the zone across the street. Hunzeker agreed. If you kept the 10' strip along the east side of S.W. 6th, he believes it would accomplish the same result as a 50' strip with the special permit. There is a requirement for a landscape screen which is a more opaque screen than a parking lot screen between incompatible land use districts. So between an R-2 and an I-1, there is a requirement that you have a landscape screen that would probably be more than what is ordinarily required in front of a parking lot.

Schwinn noted that if the applications are approved as submitted, the industrial would still have 15' setback on S.W. 6th. Hunzeker added that it would have a setback on all street sides. It would not have a front yard setback along S.W. 6th. The setback would be 15' but it would be measured from the zoning district line and would be a sideyard requirement. If you went with a 50' buffer, you effectively create a buildable residential lot that faces both "B" Street and "A" Street, which is more of a problem than it is worth.

Schwinn inquired whether the zoning could be split on a lot. Will clarified that the staff is referring to those lots immediately adjacent to S.W. 6th Street on the east side. He indicated that it is possible to split the zoning on the lot.

Bills-Strand believes we have the same situation in Bishops Heights, where there is a strip of residential as the buffer. Will concurred. That one is 150'. This similar tactic was used at Lincoln Plating to the north.

Carlson inquired whether the application has been advertised properly if the Commission chooses to include some R-2 buffer zoning. Will stated that there are four owners involved. If we are talking about a buffer strip to R-2, we would have to readvertise. That was not part of the original applications.

Schwinn believes that Hunzeker is asking for a 10' strip to give an effective 25' setback along S.W. 6th. Will believes the staff could support what has been discussed today with a two-week delay. Hunzeker is not sure he understands why we have problem with legal descriptions. Will indicated that the portions of the IMS subdivision to the north have not been described. The Planning Department has developed a rough description for the purpose of this application; however, it will be necessary to have a metes and bounds description by the time it goes to City Council.

Taylor moved to defer for two weeks, with continued public hearing and administrative action on March 20, 2002, seconded by Carlson and carried 6-0: Steward, Carlson, Bills-Strand, Taylor, Newman and Schwinn voting 'yes'; Duvall and Krieser absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 20, 2002

Members present: Newman, Taylor, Carlson, Steward, Duvall, Bills-St4rand, Larson, Krieser and Schwinn.

Staff recommendation: Approval.

1. Mark Hunzeker appeared on behalf of Jake Von Busch, the applicant for Change of Zone No. 3351, to answer any questions. He believes this proposal has finally gotten to a boundary to which everyone has agreed.

Bob Stephens, the applicant for Change of Zone No. 3358, was also present to answer any questions.

There was no testimony in opposition.

Staff questions

Carlson stated that he appreciates that this has been worked out between the staff and the applicants. But he wants to make sure this is the correct way to solve the problem. We started this process because the Von Busch property (Change of Zone No. 3351) was having difficulties siting its use within the H-4 because it would drop below the minimum acreage requirement. Why isn't the Board of Zoning Appeals an alternative in order to have Von Busch function under the H-4? Why is expanding the I-1 the better alternative than simply letting us have the H-4 parcel be under 5 acres? Brian Will of Planning staff stated that in the initial staff found, the staff found that H-4 zoning was appropriate; however, if it were approved it would have created a nonstandard lot that is not in compliance and not consistent with the zoning ordinance. That report also stated that maybe before pursuing the creation of a nonstandard lot, there may be other options to consider. That is the point where the adjoining property owner Stephens entered into this discussion. At that point, we were considering potentially rezoning all of the property to I-1. As we look at this area, it looks to be appropriate to rezone to I-1, understanding that initially part of the rationale for locating commercial zoning at this intersection was in part to address the need for the lack of commercial zoning in this area of the city. At this point, with the changes that have occurred out in this area, i.e. the commercial center at West A and Coddington, the staff believes that the

commercial need has been addressed. So as we look at the other development in this area, it appears appropriate to have the I-1 zoning. If we were not attempting to provide commercial in this area, it probably would have been zoned I-1 previously.

Will agreed that the Board of Zoning Appeals is still an option. Another option would be to vacate S.W. 5th Street, and that may still be appropriate down the road. When looking at this intersection, staff has come to the conclusion that I-1 zoning is appropriate considering the pattern of development and zoning in this area, with one caveat--we cannot get around the fact of the residential zoning to the east.

Carlson knows in the past that there have been I-1 zoning decisions that have turned out to be troublesome in the future. I-1 can be difficult to site and it can allow applications that are difficult compatibility-wise for the surrounding areas. It is a fairly unrestricted zoning district for a variety of uses. In staff's opinion, is expanding the I-1 the best solution? Will's response was that the staff took a broader view and looked at the overall neighborhood including the properties to the north and south. There is already a pretty large area of I-1 zoning. There is really no point in maintaining the H-4 at this corner, considering other land use decisions that have already been made in this area.

Carlson was worried about potential for signage and billboards. Will believes there is potential for billboards but it may not be an issue because of proximity to the residential.

Response by the Applicant

Hunzeker advised that he did talk with the owner of the property to the west at the last meeting. His main concern was that he didn't want apartments across the street and he had no objection to this change of zone.

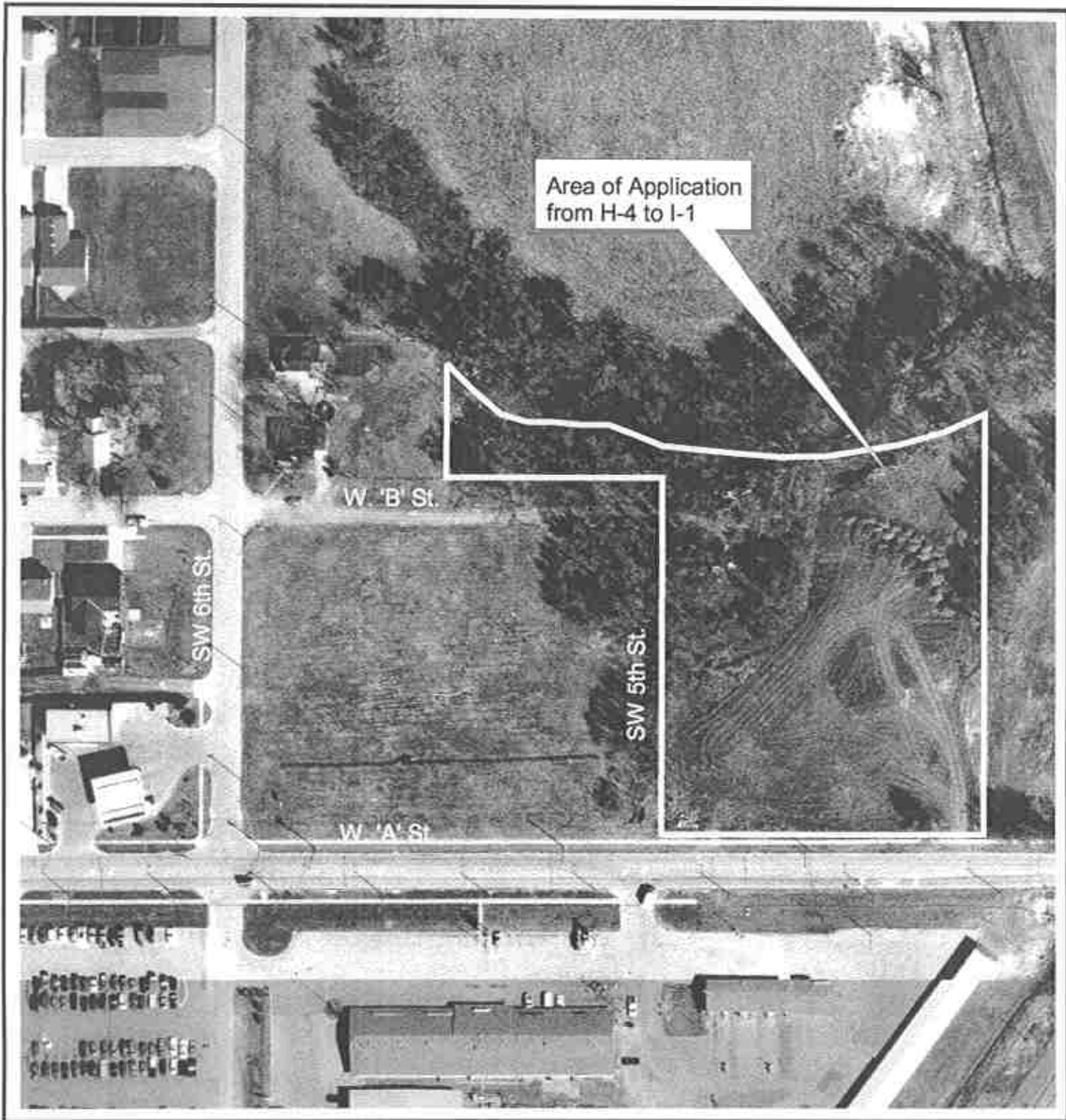
Public hearing was closed.

CHANGE OF ZONE NO. 3351

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 20, 2002

Steward moved approval, seconded by Bills-Strand and carried 9-0: Newman, Taylor, Carlson, Steward, Duvall, Bills-Strand, Larson, Krieser and Schwinn voting 'yes'.



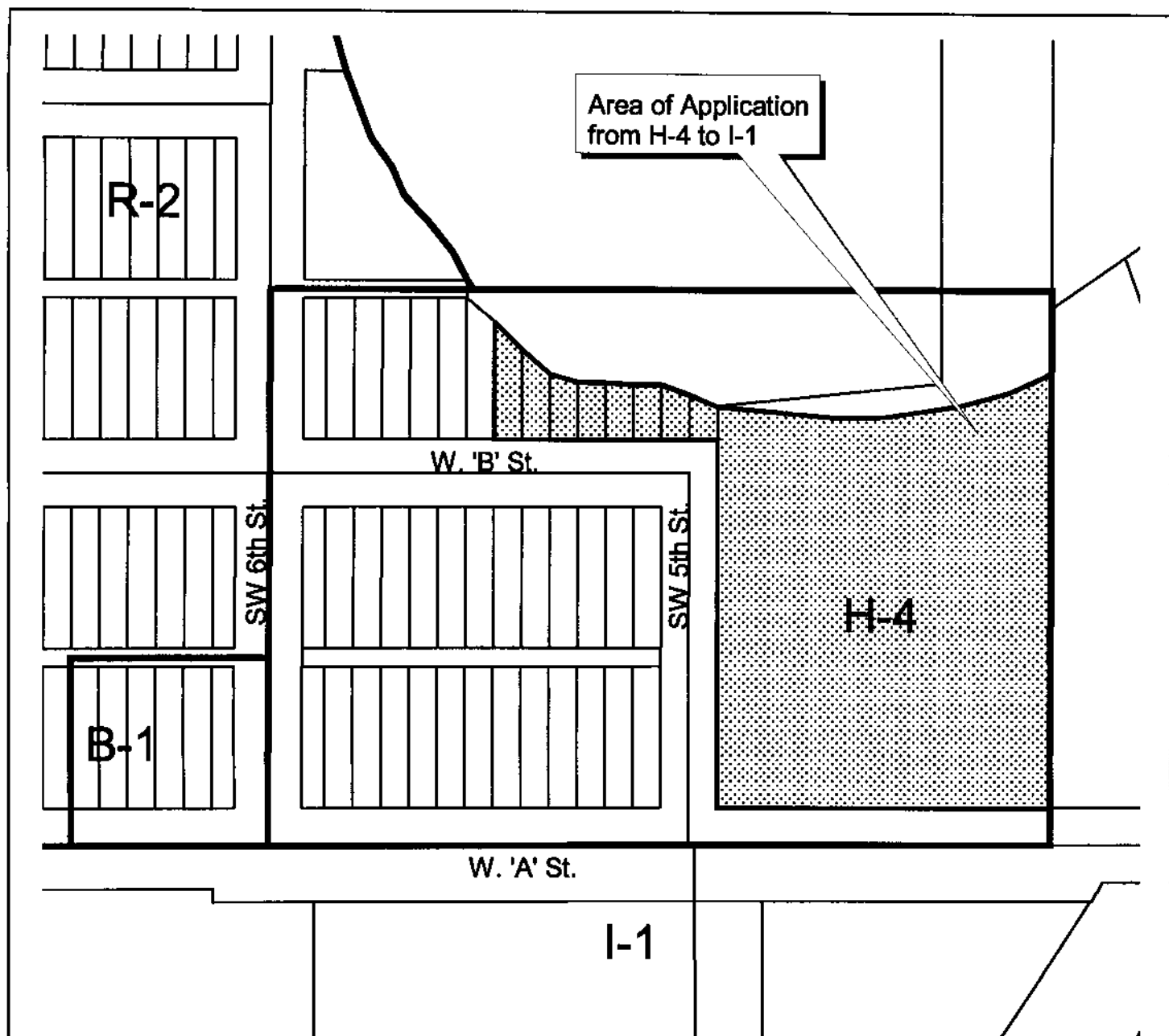
**Change of Zone #3351
SW 5th & West 'A' St.**



015

Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.

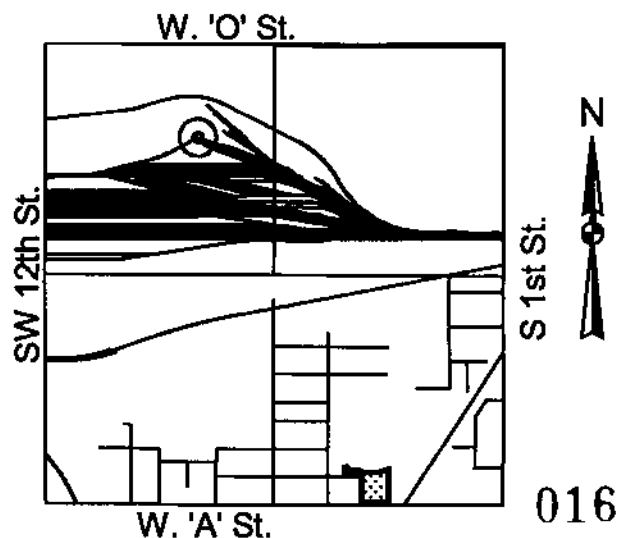
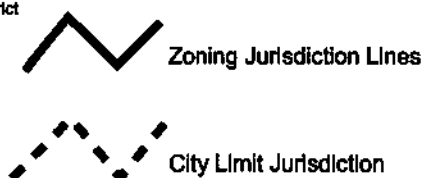


Change of Zone #3351 SW 5th & West 'A' St.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District


One Square Mile
Sec. 27 T10N R6E



The City of Lincoln needs my property for the 3rd & A St overpass and I currently have I1 Zoning. I need I1 for this property I will be building on.

M e m o r a n d u m

COZ SW 6th & W A tdm

To: Jason Reynolds, Planning
From:  Dennis Bartels, Engineering Services
Subject: Change of Zone, H4 to I1
Date: December 31, 2001
cc: Roger Figard
Nicole Fleck-Tooze

Engineering Services has the following comments concerning the proposed change of zone from H4 to I1 for property located east of Southwest 6th Street north of West 'A' Street:

1. The proposed change appears to reduce the acreage for the remaining H4 below the required 5 acres for an H4 district.
2. I question the desirability of expanding I1 uses in the vicinity of the existing residential uses.
3. This area is in the flood plain and wetlands have been identified on the property to the north and potentially exist on this property.